

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 842**

Introduced by Stuhr, 24; Brown, 6; Combs, 32; Fischer, 43; Flood,  
19; Hudkins, 21; McDonald, 41; Price, 26; Redfield,  
12; Schimek, 27; Thompson, 14

Read first time January 4, 2006

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section  
2 28-101, Revised Statutes Cumulative Supplement, 2004;  
3 to create the offenses of forced labor or services,  
4 sexual servitude, and trafficking of victims; to provide  
5 penalties; to harmonize provisions; and to repeal the  
6 original section.

7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-101, Revised Statutes Cumulative  
2 Supplement, 2004, is amended to read:

3           28-101 Sections 28-101 to 28-1350 and sections 2 to 4 of  
4 this act shall be known and may be cited as the Nebraska Criminal  
5 Code.

6           Sec. 2. For purposes of this section and sections 2 to 4  
7 of this act, the following definitions apply:

8           (1) Blackmail is to be given its ordinary meaning and  
9 includes, but is not limited to, a threat to expose any secret  
10 tending to subject any person to hatred, contempt, or ridicule;

11           (2) Commercial sexual activity means any sex act on  
12 account of which anything of value is given, promised to, or  
13 received by any person;

14           (3) Financial harm includes theft under section 28-513;

15           (4) Forced labor or services means labor or services that  
16 are performed or provided by another person and are obtained or  
17 maintained through:

18           (a) Causing or threatening to cause serious harm to any  
19 person;

20           (b) Physically restraining or threatening to physically  
21 restrain another person;

22           (c) Abusing or threatening to abuse the law or legal  
23 process;

24           (d) Knowingly destroying, concealing, removing,  
25 confiscating, or possessing any actual or purported passport

1 or other immigration document or any other actual or purported  
2 government identification document of another person;

3 (e) Blackmail; or

4 (f) Causing or threatening to cause financial harm to any  
5 person;

6 (5) Labor means work of economic or financial value;

7 (6) Maintain means, in relation to labor or services,  
8 to secure continued performance thereof, regardless of any initial  
9 agreement on the part of the victim to perform such type of  
10 service;

11 (7) Obtain means, in relation to labor or services, to  
12 secure performance thereof;

13 (8) Services means an ongoing relationship between a  
14 person and the actor in which the person performs activities under  
15 the supervision of or for the benefit of the actor. Commercial  
16 sexual activity and sexually-explicit performances are forms of  
17 services under this section. Nothing in this subdivision shall be  
18 construed to legitimize or legalize prostitution;

19 (9) Sexually-explicit performance means a live or public  
20 act or show intended to arouse or satisfy the sexual desires or  
21 appeal to the prurient interests of patrons; and

22 (10) Trafficking victim means a person subjected to the  
23 practices set forth in section 3 of this act.

24 Sec. 3. (1) No person shall knowingly subject or attempt  
25 to subject another person to forced labor or services. If a

1 perpetrator knowingly subjects another person to forced labor or  
2 services by:

3 (a) Causing or threatening to cause physical harm to such  
4 other person, the perpetrator is guilty of a Class II felony;

5 (b) Physically restraining or threatening to physically  
6 restrain such other person, the perpetrator is guilty of a Class  
7 III felony;

8 (c) Abusing or threatening to abuse the law or legal  
9 process, the perpetrator is guilty of a Class IV felony;

10 (d) Knowingly destroying, concealing, removing,  
11 confiscating or possessing any actual or purported passport or  
12 other immigration document, or any other actual or purported  
13 government identification document, of such other person, the  
14 perpetrator is guilty of a Class IV felony; or

15 (e) Using blackmail, or using or threatening to cause  
16 financial harm to such other person, the perpetrator shall be  
17 guilty of a Class I misdemeanor.

18 (2) No person shall knowingly recruit, entice, harbor,  
19 transport, provide, or obtain by any means or attempt to recruit,  
20 entice, harbor, provide, or obtain by an means another person  
21 under eighteen years of age, knowing that such person under  
22 eighteen years of age will engage in commercial sexual activity,  
23 sexually-explicit performance, or the production of pornography  
24 or cause or attempt to cause a minor to engage in commercial  
25 sexual activity, sexually-explicit performance, or the production

1 of pornography. A person who violates this subsection shall be  
2 punished as follows:

3 (a) In cases in which the violation involved overt force  
4 or threat of force, such person is guilty of a Class ID felony;

5 (b) In cases in which the victim had not attained the age  
6 of fifteen years, not involving overt force or threat of force,  
7 such person is guilty of a Class II felony; or

8 (c) In cases involving a victim between the ages of  
9 fifteen and eighteen years, not involving overt force or threat of  
10 force, such person is guilty of a Class III felony.

11 (3) Any person who knowingly (a) recruits, entices,  
12 harbors, transports, provides, or obtains by any means, or attempts  
13 to recruit, entice, harbor, transport, provide, or obtain by any  
14 means, another person, intending or knowing that the person will be  
15 subjected to forced labor or services or (b) benefits, financially  
16 or by receiving anything of value, from participation in a venture  
17 which has, as part of the venture, an act that is in violation of  
18 subsection (1) or (2) of this section, is guilty of a Class III  
19 felony.

20 (4) Restitution is mandatory under this section. In  
21 addition to any other amount of loss identified, the court shall  
22 order restitution including the greater of (a) the gross income or  
23 value to the perpetrator of the victim's labor or services or (b)  
24 the value of the victim's labor as guaranteed under the minimum  
25 wage and overtime provisions of the federal Fair Labor Standards

1 Act, 29 U.S.C. 201, et seq., as the act existed on January 1, 2006.

2           Sec. 4. (1) The Attorney General, in consultation with  
3 the Department of Health and Human Services shall, no later  
4 than one year after the effective date of this act, issue a  
5 report outlining how existing victim and witness laws and rules  
6 and regulations respond to the needs of trafficking victims and  
7 suggesting areas of improvement and modification.

8           (2) The Department of Health and Human Services, in  
9 consultation with the Attorney General, shall, no later than one  
10 year after the effective date of this act, issue a report outlining  
11 how existing social service programs respond or fail to respond  
12 to the needs of trafficking victims and the interplay of such  
13 existing programs with federally-funded victim service programs and  
14 suggesting areas of improvement and modification.

15           Sec. 5. Original section 28-101, Revised Statutes  
16 Cumulative Supplement, 2004, is repealed.